

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN MONICA LINDEEN**, on February 3, 2005
at 3:06 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Monica Lindeen, Chairman (D)
Rep. Bill E. Glaser, Vice Chairman (R)
Rep. Norma Bixby (D)
Rep. Tim Dowell (D)
Rep. Dave Gallik (D)
Rep. Bob Lake (R)
Rep. Holly Raser (D)
Rep. Jon Sonju (R)
Rep. Pat Wagman (R)

Members Excused: Rep. Verdell Jackson (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Kim Leighton, Committee Secretary
Chris Lohse, Legislative Branch
Eddy McClure, Legislative Branch
Jim Standaert, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 152, 1/28/2005
Executive Action:

HEARING ON SB 152

Sponsor: SEN. DON RYAN, SD 10, GREAT FALLS

{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.6}

Opening Statement By Sponsor:

SEN. RYAN opened the hearing on SB 152. This bill is intended to define a basic system of quality education. SEN. RYAN stated problems that lead to this bill, and also what schools are currently doing to address this issue. He also said, "If we do our job this session, Montana has a great opportunity to get out from under these lawsuits." SEN. RYAN commented that the legislature needs to do this in terms of inputs. In other words, it is necessary to find the essential components.

{Tape: 1; Side: A; Approx. Time Counter: 2.6 - 11}

Proponents' Testimony:

Lance Melton, Montana State Board Association (MTSBA), provided written documents to support his testimony. He would like to see the legislature have as much time as possible to define this. He broke down different portions of SB 152 to address this issue.

[EXHIBIT](#)(esh27a01)

[EXHIBIT](#)(esh27a02)

David Fern, Former President of MTSBA, Current Member of Whitefish School Board, provided written documents to support his testimony, and discussed them in detail. He also stated that the legislature has an obligation to fulfill this foundation for a quality education.

[EXHIBIT](#)(esh27a03)

[EXHIBIT](#)(esh27a04)

Dave Puyear, Montana Rural Education Association (MREA), stated that "The issue of quality is a moving target." He concurs with the SEN. RYAN's idea of addressing the necessary inputs. He asked to draw everyone's attention to Page 4, Subsection 2 and stated that he finds it troublesome. He stated specifics and discussed them at length.

REP. CAROL JUNEAU, HD 16, BROWNING thanked SEN. RYAN for bringing this bill forward. She stated that Article 10, Section 1, Subsection 2 is important. She also said that the reference to the Supreme Court decision is also very good. REP. JUNEAU also emphasized that educationally relevant factors must include those

students that are not achieving at the proper level. Indian education is for all Montanans, not all Indian children.

Madalyn Quinlan, Office of Public Instruction(OPI), testified representing Linda McCulloch, State Superintendent, OPI. She stated that it is important for the legislature to define educationally relevant factors, and also stressed the importance of reassessing the situation every six years.

Linda Gryczan, League of Women Voters, stressed the importance of the Indian Education For All Act(IEFAA). She also provided written testimony.

[EXHIBIT](#)(esh27a05)

Erik Burke, Montana Education Association-Montana Federation of Teachers(MEA-MFT), attested that Montana schools must have the proper tools in order to succeed. The tools include resources, programs, in-service training, transportation mechanisms, buildings, and IEFAA. He also touched on Page 5, Line 3 and discussed it in more detail.

Bruce Messenger, Superintendent of Helena Public Schools, stood in support of SB 152. He reiterated that high-quality employees and the resources to keep them here is very important.

Rod Svee, Superintendent of Billings Public Schools, provided written material to support his testimony. He then discussed different portions of these materials at length.

[EXHIBIT](#)(esh27a06)

[EXHIBIT](#)(esh27a07)

Steve Meloy, Board of Public Education(BPE), thanked SEN. RYAN for introducing this bill. He also discussed Helena Elementary v State.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 26}

Opponents' Testimony:

Esther Fishbaugh, Citizen of Bozeman, stated that she does not agree with simply defining the components. The legislature needs to define quality education, not quality components. Something that needs to be addressed is the kind of learning which should take place that the committee can measure. **Ms. Fishbaugh** claimed that she sees this bill as a wish list. She also provided a written document to aid her testimony.

[EXHIBIT](#)(esh27a08)

Harris Himes, President, Montana Family Coalition(MFC), provided a document to support his opposition to SB 152. **Mr. Himes** believes that this bill seems to be asking for more money which may not be available. He stressed that quality education needs to include those students being homeschooled. **Mr. Himes** suggested that the committee keep this group of individuals in mind.

EXHIBIT (esh27a09)

Karen Lester, Citizen of Bozeman, attested that this bill is asserting too much involvement by the people, rather than the local government. She would also like to see more conservative studies; the studies have become too broad at this point. She also provided a document to support her opposition to this bill.

EXHIBIT (esh27a10)

John Lester, Small Business Owner, stood in opposition to SB 152. He believes that the system is too broad and wide. He asked that the committee does not put this responsibility on the back of taxpayers. He also suggested a two-year reassessment, rather than a six-year reassessment.

Claudia Cameron, Citizen of Belgrade, stood in opposition to this bill. Many of her comments had already been stated.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 16.6}

Informational Testimony:

Ali Bovington, Office of the Attorney General (AG), offered testimony, and stated she would be available for questions.

{Tape: 2; Side: A; Approx. Time Counter: 16.6 - 18.6}

Questions From The Committee:

REP. DAVE GALLIK directed a question to Ms. Fishbaugh. He asked her to expand on her concerns regarding the property taxes possibly increasing. He asked her what needs to be done with this bill, in her opinion.

Ms. Fishbaugh reiterated that the task of defining tools for education is not the way to go. There is not a definition of quality education in any part of this bill. It seems like a backward way of doing things.

REP. DAVE GALLIK asked Ms. Fishbaugh if she prefers that the committee find a dollar amount, and address the issue of quality education from there.

Ms. Fishbaugh stated that the committee needs to find the definition for quality education, and once that is established, then the committee needs to find a funding formula.

REP. HOLLY RASER asked Ms. Fishbaugh if she was familiar with the current accreditation standards.

Ms. Fishbaugh stated that she looked at the website for OPI recently. She didn't find a clear definition, but she is somewhat familiar with them. However, she would like to see a copy of them if that is possible.

REP. RASER redirected the question to Mr. Meloy. She asked him about specifics of the accreditation standards, and what they entail.

Mr. Meloy commented that BPE deals with these accreditation standards. He also stated that it is his belief that if all the districts had funds for the current accreditation standards, Montana would have a quality education system.

REP. RASER asked if he could arrange for Ms. Fishbaugh to have access to the accreditation standards. She was also concerned about how the standards are set in regard to individuals who are homeschooled.

Mr. Meloy stated they follow the guidelines in the Montana Administrative Procedures Act (MAPA). Anyone is allowed to make recommendations for changes. BPE then looks at these recommendations and follows a three-stage process.

REP. RASER asked if homeschooled individuals can be a part of this process.

Mr. Meloy said, "Absolutely."

REP. BOB LAKE directed a question to Dave Puyear. He asked him what kind of problems there are concerning the reassessment and tracking issue.

Mr. Puyear stated that the way it is worded makes it too vague.

REP. LAKE asked Mr. Puyear if the method and tracking system is skewed.

Mr. Puyear replied that this is correct.

REP. LAKE asked Mr. Puyear if there are other areas in the bill that are too vague.

Mr. Puyear answered, "Yes."

REP. GALLIK directed a question to Ms. Bovington. He said, "Assuming SB 152 becomes a bill; if the state did not use all of the money allocated, could you defend that?"

Ms. Bovington said that she could defend that. Fiscal notes are as close as they can be.

REP. PAT WAGMAN asked Ms. Bovington if she saw any problems with this bill.

Ms. Bovington stated that is a very broad question. She believes that the components of SB 152 are legally sound, and provides the committee with quantifiable measures.

REP. WAGMAN reiterated that there are several versions of this bill. He then asked about the full potential of SB 152. **REP. WAGMAN** pointed out Page 3, Line 20-21 and asked her to explain how she would defend it.

Ms. Bovington expressed that she always defends the state as best as she can. However, in her opinion, she liked the bill before it was amended.

REP. WAGMAN asked Ms. Bovington to expand on the section that addresses health insurance and retirees. He asked if these are considered educationally relevant factors.

Ms. Bovington explained that according to the district court decision, the topic of retaining teachers is an educationally relevant factor.

REP. WAGMAN asked Ms. Bovington for a list of educationally relevant factors.

Ms. Bovington stated that she could give the district court findings. However, in her opinion, it is the committee's duty to compile this list.

REP. WAGMAN expressed that this bill gives a list of educationally relevant factors. He asked her if this is what the court deems educationally relevant factors, or if there are more.

Ms. Bovington stated that the court has given these factors based on regression analysis studies. It is now up to the legislature to follow through.

CHAIRMAN LINDEEN asked SEN. RYAN if he had seen the gray bill that was drafted by the MTSBA.

SEN. RYAN stated, "No."

CHAIRMAN LINDEEN asked SEN. RYAN to expand on the idea that home-schooled individuals were disenfranchised from this bill.

SEN. RYAN explained that Page 2, Line 17 - Page 3, Line 3 was removed because those individuals home-schooled did not want any part of this bill.

CHAIRMAN LINDEEN pointed out Page 3, Line 19-20 which deals with implementing educational programs. She then asked if the new language results in more output for the students.

SEN. RYAN stated that the first language was more focused on outputs. It was changed to redirect the focus to inputs. There was also the need to incorporate students with special disabilities, and those that aren't achieving at the proper level.

CHAIRMAN LINDEEN asked SEN. RYAN to expand on REP. JUNEAU's remarks about the requirements to include tribal studies.

SEN. RYAN went on to discuss what the word "local" really means.

CHAIRMAN LINDEEN directed a question to Mr. Puyear. She asked him if the four specifics on Page 4 are addressed in the gray bill.

Mr. Puyear stated that he believes it does.

CHAIRMAN LINDEEN asked Lance Melton about Page 3, Subsection 3-b of the gray bill. She asked him what would happen if the feds pass more programs, taking into consideration the programs that are already in effect.

Mr. Melton explained that it is covered under Subsection 3-a.

REP. WAGMAN asked Ms. Bovington about the constitutional structure of these bills, and where the committee would be at if this bill is not passed.

Ms. Bovington stated that the courts have given the legislature until October 1, 2005.

REP. WAGMAN then followed up by asking what happens if the legislature continues to do what it has been doing in the past.

Ms. Bovington claimed that if nothing is done, she is sure there will be continued litigation on the matter.

REP. WAGMAN inquired if the court has the ability to direct the legislature.

Ms. Bovington attested that if nothing is even attempted there is the possibility that they could be dismissed from the lawsuit.

REP. WAGMAN touched on similar cases in Arkansas and Ohio. Ultimately, he wanted to know if the court has any control over what happens in the end.

Ms. Bovington stated, "I believe they do."

REP. WAGMAN asked what would happen if the legislative body isn't responsive.

Ms. Bovington reiterated that this will continue to be litigated, given the body is unresponsive.

REP. RASER mentioned that Ms. Bovington had expressed concerns about Page 3, Lines 20-23. She then asked Ms. Bovington about the gray bill. She asked if it is phrased in such a way that every student will succeed; or rather if it is holding the committee responsible if students don't succeed.

Ms. Bovington stated that it is the goal of the system that every student is successful.

REP. WAGMAN commented that something shouldn't be in the bill if the committee doesn't think they can meet it. He inquired to Ms. Bovington about the accreditation standards.

Ms. Bovington stated that the intent of this committee is to construct a quality system. She also reiterated that the accreditation standards are the minimum standards that comply with a quality education system.

REP. WAGMAN inquired if the committee accepts the accreditation standards, are they putting the responsibility on future legislators with something they cannot afford.

Ms. Bovington stated that if the committee puts something in law, it will affect the future legislators. There really is no way around it.

REP. WAGMAN asked if, in the actions of the committee, they obligate future legislators to act on certain things.

Ms. Bovington reiterated that the present body is constantly doing this.

REP. WAGMAN redirected the question to Eddye McClure, Legislative Services Division.

Ms. McClure stated, "What you can't do is obligate through an appropriation."

REP. LAKE asked Ms. Quinlan how many high schools cannot achieve the standards currently set by OPI.

Ms. Quinlan claimed that she did not know the numbers off the top of her head.

REP. LAKE commented that the state does have schools that are not achieving the standards, and asked if this is an on-going problem.

Ms. Quinlan stated that this is a problem.

REP. GALLIK asked Mr. Melton to expand on changes he made from gray bill 311 to gray bill 152.

Mr. Melton stated on Page 3; Subsection 2 changed from enabling students, to the aspirational goal of enabling students. He then spoke of the greater level of specificity in Subsection 3-b.

REP. RASER asked Mr. Melton to expand on the problem of schools not meeting the accreditation standards. She asked about three things: are the schools just not meeting the accreditation standards, do they disagree on the standards, or if it is a problem of not having enough money to meet the standards.

Mr. Melton attested that a majority of the violations were due to lack of funding.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 11.2}

Closing Statement By Sponsor:

SEN. RYAN closed his argument on SB 152. He reiterated that nobody wants the accreditation standards to disappear. He stated that this bill allows for flexibility, and lack of money is not a defense. He stated, "Montanans need to look to the future with our kids."

ADJOURNMENT

Adjournment: 5:35 P.M.

REP. MONICA LINDEEN, Chairman

KIM LEIGHTON, Secretary

ML/kl

Additional Exhibits:

EXHIBIT ([esh27aad0.TIF](#))